

Sec. 36-63. General powers, duties and liabilities of utility official in administering W.A.T.E.R. Fund.

The utility official shall establish and review procedures to ensure the selection of recipients for assistance in accordance with the criteria set forth in section 36-62. Subject to the criteria set forth in section 36-62, the utility official shall, establish all necessary administrative procedures including the promulgation of application forms and the designation of places where applications shall be received. The utility official shall select the recipients from those determined to be qualified based on the order their applications are received. The public works and engineering department will be responsible for the accounting of funds and final disbursement of credits to the accounts of designated recipients in accordance with the criteria set forth in section 36-64.

(Ord. No. 84-1919, § 1, 12-18-84; Ord. No. 86-435, § 1, 4-1-86; Ord. No. 90-635, § 78, 5-23-90; Ord. No. 92-23, § 3, 1-15-92; Ord. No. 93-514, § 56, 5-5-93)

Sec. 36-64. Fund transfers and credits to recipients' accounts.

All fund transfers in reference to the W.A.T.E.R. Fund from the city's trust and agency account to the receivables accounts of the public works and engineering department and credits to recipients' water and sanitary sewer bills therefrom shall be made at the direction of the utility official. Such fund transfers and credits shall show the purpose for which they were issued.

(Ord. No. 84-1919, § 1, 12-18-84; Ord. No. 86-435, § 1, 4-1-86; Ord. No. 90-635, § 78, 5-23-90; Ord. No. 92-23, § 4, 1-15-92; Ord. No. 93-514, § 56, 5-5-93)

Secs. 36-65—36-70. Reserved.

ARTICLE V. SOLICITATION OF FUNDS FOR CHARITABLE PURPOSES*

Sec. 36-71. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

Adult means an individual who has attained the age of 18.

Charitable purpose means philanthropic, religious or other nonprofit objectives, including the benefit of poor, needy, sick, refugee or handicapped persons; the benefit of any church or religious society, sect, group or order; the benefit of a patriotic or veterans' association or organization; the benefit of any fraternal, social or civic organization, or the benefit of any educational institution. The term "charitable purpose" shall not be construed to include the direct benefit of the individual making the solicitation or the benefit of any political group or political organization that is subject to financial disclosure under state or federal law.

Class A refers to a certificate of registration permitting the solicitation of funds that includes among its means and methods the solicitation of occupants of vehicles on public streets.

Class B refers to a certificate of registration permitting the solicitation of funds that does not include among its means and methods the solicitation of occupants of vehicles on the public streets.

Director means the director of the department of finance and administration of the city or any individual employed by such department that he shall designate to perform any of his functions specified in this article.

Individual means only a natural person.

Median means a dividing area, whether landscaped or paved, maintained for the purpose of separating or directing vehicular traffic.

*Editor's note—Ord. No. 2005-1346, § 1, adopted December 7, 2005, amended Ch. 36, Art. V in its entirety to read as herein set out. Formerly, said article pertained to similar subject matter and derived from Ord. No. 85-497, § 1, adopted April 10, 1985.

Minor means an individual who has not attained the age of 18.

Person means and includes any natural person, firm, partnership, corporation or association.

Roadway has the meaning ascribed in section 45-2 of this Code.

Solicit funds or *solicitation of funds* means any request for the donation of money, property, or anything of value, or the pledge of a future donation of money, property, or anything of value; or the selling or offering for sale of any property, real or personal, tangible or intangible, whether of value or not, including, but not limited to, goods, books, pamphlets, tickets, publications or subscriptions to publications, or brochures, upon the representation, express or implied, that the proceeds of such sale will be used for a charitable purpose as such term is herein defined. Expressly excluded from the meaning of "solicit funds" or "solicitation of funds" are any offer of membership in any organization and any solicitation of funds for any purpose either by a governmental agency or political subdivision. The means of solicitation of funds covered by this definition are limited to a solicitation communicated in the physical presence of any individual or by telephone call placed and received within the corporate limits of the city.

Street has the meaning ascribed in section 45-2 of this Code.

(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-72. Unlawful solicitation.

It shall be unlawful within the corporate limits of the city:

- (1) For any person, directly or through an agent or employee, to solicit funds unless such person has first obtained a certificate of registration from the director, as hereinafter provided.
- (2) For any individual, as the agent or employee of another, to solicit funds unless his principal or employer has received a certificate of registration as hereinafter provided.

- (3) For any person to solicit funds between the hours of 9:00 p.m. and 8:00 a.m.
- (4) For any person, directly or through an agent or employee, to solicit funds after the expiration of any certificate of registration issued as hereinafter provided.
- (5) For the person registering or the agents or employees thereof to solicit funds for a purpose other than that set out in the registration statement upon which the certificate of registration was issued.
- (6) For any person who solicits funds to represent, in connection with such solicitation of funds, that the issuance of a certificate of registration by the city constitutes an endorsement or approval of the purposes, means, or methods of such solicitation of funds by the city or any department, officer or employee thereof.
- (7) For any person issued a certificate of registration hereunder to fail to file any financial statement required to be filed under this article.
- (8) For any person to employ, suffer or permit a minor to solicit funds.
- (9) For any person to use or expose any animal to hazardous conditions to solicit funds.

(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-73. False or misleading solicitation.

It shall be unlawful for any person to knowingly make a false or misleading representation in the course of a solicitation of funds. False or misleading representations include, but are not limited to, the following:

- (1) Stating that the solicitation of funds is being carried out on behalf of an organization that does not exist.
- (2) Stating that the solicitor represents an organization when such statement is false.
- (3) Exhibiting a military, medical or religious order uniform or other indication of military service or membership in a medical profession or religious order when the person soliciting funds is neither a present

nor former member of the service indicated, or a member of a medical profession or religious order, unless the person is soliciting funds on behalf of the military branch, medical profession, or religious order indicated in the statement.

- (4) Exhibiting an indication of physical disability or using makeup or a device to simulate any deformity or disability, when the person soliciting funds does not suffer the deformity or disability indicated.

(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-74. Solicitation on public streets.

(a) *Solicitation in roadways.* Except as provided in section 36-75, it shall be unlawful for any person to stand in a roadway to solicit funds. It shall be unlawful for a minor to stand in a roadway for any purpose, including solicitation of funds, except as permitted by the traffic laws of the state.

(b) *Requirements.* It shall be unlawful for any person to solicit funds pursuant to a class A certificate unless the person:

- (1) Properly wears a high visibility traffic vest provided by the director pursuant to rules and regulations promulgated therefor;
- (2) Conducts the solicitation of funds only within 40 feet of an intersection controlled by a traffic signal that requires all traffic to come to a full stop;
- (3) Solicits funds only while located on a shoulder, improved shoulder, curb or sidewalk adjacent to the roadway, excluding any median;
- (4) Does not enter the roadway to solicit or retrieve funds; and
- (5) Does not obstruct traffic or create a hazard to traffic or any other person.

(c) *First aid requirement.* It shall be unlawful for a person to solicit funds pursuant to a class A certificate where more than four individuals are also soliciting funds simultaneously at the same location unless a person certified by the American

Heart Association or American Red Cross in cardiopulmonary resuscitation and first aid is present at the location.

(d) *Location.* It shall be unlawful for a person to solicit funds pursuant to a class A certificate from a location not specified in the certificate.

(e) *[Authority.]* The director is authorized to promulgate such rules and regulations necessary for the implementation and administration of this section.

(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-75. Charitable solicitation by municipal employees and/or agents.

(a) No nonprofit corporation, group, or organization may engage, suffer or permit any employee or agent of the city to engage in a solicitation of funds on its behalf that requires the issuance of a class A certificate under this article unless such certificate has been issued to the nonprofit corporation, group, or organization in compliance with this article.

(b) No employee or agent of the city shall engage in a solicitation of funds on behalf of a nonprofit corporation, group, or organization that has not received a valid class A certificate issued pursuant to this article.

(c) An employee or agent of the city engaged in the solicitation of funds on behalf of a nonprofit corporation, group, or organization may solicit funds while standing in a roadway as authorized by Section 552.0071 of the Texas Transportation Code.

(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-76. Registration statement.

(a) *In general.* Any person who seeks to solicit funds for charitable purposes within the corporate limits of the city shall file with the director a registration statement, on forms provided by the director, containing the following:

- (1) The name of the person registering to solicit funds for charitable purposes.

- (2) Whether the person registering is an individual, partnership, corporation or association, and:
 - a. If an individual, his or her business or residence address and telephone number.
 - b. If a partnership, the names of all partners and the principal business address and telephone number of each partner.
 - c. If a corporation, whether it is organized under the laws of Texas or is a foreign corporation, the mailing address, business location, telephone number, and name of the individual in charge of the Houston office of the corporation, the names of all officers and directors or trustees of the corporation, and, if a foreign corporation, the place of incorporation.
 - d. If an association, the association's principal business address and telephone number, if any, and the names and principal business or residence addresses and telephone numbers of all members of the association. However, if there are more than ten members, the person registering may alternatively list the names and principal business or residence addresses and telephone numbers of the officers and directors or trustees of the association. If the association is part of a multistate organization or association, the mailing address and business location of its principal headquarters shall be given, in addition to the mailing address and business location of its local office.
- (3) A brief description of the charitable purpose for which the funds are to be solicited, and an explanation of the intended use of the funds toward that purpose.
- (4) The names of all individuals authorized to incur expenses related to the solicitation or to disburse any proceeds of the solicitation.
- (5) The name, mailing address and telephone number of each individual who will have organizational responsibility with respect to the solicitation of funds. If there are more than 20 such individuals, the person registering may alternatively list the 20 individuals with the principal organizational responsibility with respect to the solicitation of funds.
- (6) The time period within which the solicitation of funds is to be made, giving the date of the beginning of solicitation and its projected conclusion.
- (7) A description of the means and methods by which the solicitation of funds is to be accomplished, including whether such means and methods will include any solicitation of occupants of vehicles on public streets.
- (8) The total amount of funds proposed to be raised.
- (9) A projected schedule of salaries, wages, fees, commissions, expenses and costs that the person registering reasonably believes will be expended and paid in connection with the solicitation of funds or in connection with their disbursement, and an estimated percentage of the total projected collections which the costs of solicitation will comprise. These figures shall cover the entire time period during which the solicitation is to be made.
- (10) The names of any cities outside of Harris County, Texas, in which the person registering has solicited funds for charitable purposes within the past five years, but in the event that the person registering has solicited funds for charitable purposes in more than five other cities, the person registering may list the five most populated cities in which it has solicited funds during the previous five years.
- (11) A statement to the effect that if a certificate of registration is granted, such certificate will not be used as or represented to be an endorsement by the city or any of its officers or employees.

- (12) As to each, if any, officer, director, trustee, partner, or any current agent or employee engaging in the solicitation of funds who within the past seven years has been convicted of (or been incarcerated for any conviction of) a felony or a misdemeanor involving moral turpitude, the name of the individual, the nature of the offense, the name of the state where the conviction occurred, and the year of the conviction.
 - (13) An explanation of the reasons, if the person registering is unable to provide any of the foregoing information, why such information is not available.
 - (14) The signature of an individual on behalf of the person registering. If the person registering is an individual, this is the applicant. If the person registering is a partnership, this is the partner charged with disbursing the funds solicited. If the person registering is a corporation or an association, this is its officer charged with disbursing the funds solicited. The individual signing the registration statement shall sign the statement and swear before an officer authorized to administer oaths that he or she has carefully read the registration statement and that all the information contained therein is true and correct.
- (b) *Class A certificate; additional requirements.* Each registration statement for a class A certificate shall include the following additional information:
- (1) Each location at which solicitation of funds is to occur; and
 - (2) The number of persons to be involved in solicitation of funds at each location.
- (c) *Class A certificate; use of city employee or agent; additional requirements.* If the proposed solicitation is to include the use of any employee or agent of the city as provided in section 36-75 of this Code, the applicant shall also provide, in a form acceptable to the city attorney, proof of a current policy of commercial general liability insurance providing coverage against claims against

the applicant and the city in the amount of at least \$1,000,000.00 for any damages that may arise from the solicitation.

(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-77. Registration fee.

Every registration statement shall be accompanied by a registration fee of \$12 to compensate the city for the cost of administering this article provided that no fee shall be charged to a non-profit corporation, group, or organization that uses only employees or agents of the city to solicit funds pursuant to a class A certificate issued under this article. Such fee will be nonrefundable, irrespective of whether a certificate of registration is issued.

(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-78. Issuance of certificate of registration.

(a) *Class A.* A registration statement for a class A certificate shall be filed not later than the eleventh day before the date the solicitation of funds is to begin. Within five working days of the receipt of the registration statement, the director shall either issue a certificate of registration, as provided in section 36-79, or notify the person registering that the registration statement does not comply with the requirements of section 36-76, and specifically point out what information or explanation has not been furnished that is required before a certificate of registration can be issued.

(b) *Class B.* Within ten working days of the receipt of a class B registration statement, the director shall either issue a certificate of registration, as provided in section 36-79, or notify the person registering that the registration statement does not comply with the requirements of section 36-76, and specifically point out what information or explanation has not been furnished that is required before a certificate of registration can be issued.

(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-79. Form of certificate of registration.

(a) The director shall prescribe the form of each certificate of registration, each of which shall be printed in black except that the following

shall be printed prominently thereon in red: "The issuance of this certificate of registration is not an endorsement by the City of Houston or any of its departments, officers or employees." Each certificate of registration shall specify the period of its validity as determined pursuant to section 36-81 and shall also bear a registration number, and the same number shall be assigned by the director to the file containing the registration statement filed by the registrant.

(b) In addition to the foregoing requirements, each class A certificate shall specify each location at which funds may be solicited.
(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-80. Transfer of certificate of registration prohibited.

A certificate of registration issued under the provisions of this article shall not be transferable, and the authority a certificate confers shall be conferred only on the holder named therein. The certificate of registration shall have endorsed thereon in red letters the words "NOT TRANSFERABLE."
(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-81. Expiration of certificate of registration; filing of financial statements within specified time of termination of solicitation.

(a) Each certification of registration issued by the director shall expire according to the following schedule:

- (1) A Class A certificate of registration shall expire not later than 30 days from the date of issuance, or upon the termination of the solicitation period specified, whichever is less.
- (2) A Class B certificate of registration shall expire not later than one year from the date of issuance, or upon the termination of the solicitation period specified, whichever is less.

(b) Not later than 120 days after the expiration of its certificate of registration, each person so registered shall file a closing statement with

the director. Except as provided to the contrary in this section, the closing statement shall be a financial statement that is either:

- (1) On a form provided by the director for this purpose and sworn to by the individual who would be the appropriate individual to sign a registration statement on behalf of the person who registered; or
- (2) Audited by a certified public accountant.

The closing statement shall indicate the total funds collected or pledged from the solicitation of funds, the purpose or purposes (with the amount of funds for each purpose) for which such funds have been or will be disbursed by the person registering, any incurred but unpaid expenses resulting from the solicitation of funds, all other anticipated disbursements of collected or pledged funds, the actual or projected date of each disbursement, and, if funds have been or will be kept by the person registering for over 30 days before disbursement, the name of the financial institution, if any, with which such funds have been or will be deposited. The requirement to show the total funds represented by any food that has been collected or pledged may be satisfied either by estimating the monetary value of the food to the nearest multiple of \$100.00 or by providing the weight of the food in the manner required by the director.

(c) Each person registering shall file a preliminary closing statement no later than 30 days from the expiration of its certificate of registration. The preliminary closing statement shall be filed with the director on forms provided for this purpose. It shall be a financial statement containing the same information as listed on the preceding paragraph of this section, except that it need not be sworn to or audited by a certified public accountant and that any amounts stated thereon may be estimated based upon whatever information is reasonably available to the person registering at the time the preliminary closing statement is filed.

(d) Any requirement in this section to submit a financial statement may alternatively be satisfied by the submission of an information return covering the entire time period during which the solicitation of funds was conducted and actually

filed with the United States Internal Revenue Service to fulfill federal requirements for submission of information returns for persons exempt from taxes in accordance with 26 U.S.C.A. § 501 or any successor provision.
(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-82. Public disclosure.

All registration statements and closing statements filed with the director, whether or not a certificate of registration has been issued, shall be public records and shall be available for inspection by members of the public during the director's regular business hours. Copies may be obtained at the fees prescribed by law for copies of city records.
(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-83. Exceptions.

The following are excepted from the operation of sections 36-71 through 36-81:

- (1) The solicitation of funds for charitable purposes by any organization or association from its members;
- (2) The solicitation of funds for charitable purposes by a person when such solicitation occurs on premises owned or controlled by the person soliciting funds or with the permission of the person who owns or controls the premises; and
- (3) The issuance of any announcement or advertisement which states that a solicitation as described in subsections (1) and (2) above will occur or which announces or advertises an event at which unannounced solicitation as described in subsections (1) and (2) above occurs.

(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-84. Penalties.

Violation of any applicable provision of this article shall be punished as provided by section 1-6 of this Code. Each day that any violation continues shall constitute a separate offense. However, an offense under any provision of this article

which also constitutes an offense pursuant to state law shall be punishable in accordance with the applicable state law.

(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-85. Provisions cumulative.

The provisions of this article are cumulative of any other valid and applicable laws, rules or regulations governing the solicitation of funds or any activity which may be associated therewith. Compliance with this article shall not be deemed to excuse compliance with any other valid and applicable laws, rules or regulations governing the solicitation of funds or any activity which may be associated therewith.

(Ord. No. 05-1346, § 1, 12-7-05)